

Questions to Consider for Estate Planning Estate Planning Strategies

Wills

Who will receive assets under my Will and who will ensure that my assets pass as I wish?

Tangible Personal Property (e.g., jewelry, art, antiques, automobiles, boats, furniture and furnishings)

- Will these items pass outright to the surviving spouse and then to your children in equal shares?

- Are there any specific items that you wish to leave to a particular individual?

- Items can be bequeathed specifically in your Will or trust or by leaving a letter giving instructions to the Executor for the disposition of these items.
- In a common estate plan, the balance of your property will pass to your revocable trust if you have established a revocable trust.

Residential Property

- If your residence is held individually, will it pass under the Will or by operation of law (e.g. to a surviving spouse)?

- Do you wish to leave full ownership to a specific person, or provide any person with lifetime use of the property?

- Do you wish to direct that property be sold?

- Provisions regarding tangible and residential property often appear in a Will, a Revocable Trust or both.
- In a common estate plan, the balance of your property will pass to your revocable trust if you have established a revocable trust.

Executors

- The Executor carries out your wishes as set forth in the Will. The role is administrative in nature (e.g., works with lawyers and accountants to collect and distribute assets, file taxes and prepare legal documents).

- Will the surviving spouse serve as the sole executor (to work with the lawyers and accountants on the estate administration) upon the first spouse's death?

- Who will serve as the backup executor upon the surviving spouse's death?

Guardians

- Who will serve as guardian of your minor children if neither you nor your spouse is living?

- Consider naming a backup.

Revocable Trusts

Who will receive assets that pass under my revocable trust and who will ensure that my assets pass as I wish?

- Are there any specific gifts that you wish to make to friends, family or charity?

- The balance of your estate may pass to the surviving spouse. Should that bequest be outright or in trust?

- (A trust provides asset protection and can ensure that the survivor cannot designate new beneficiaries; however, the surviving spouse may have to request distributions from a Trustee for access to funds.)
- As an aside, the trust may include a discretionary trust that the surviving spouse may choose to fund for tax purposes upon the first spouse's death. It is purely elective and done only for tax planning purposes.

Terms of Beneficiaries' Trusts

- Trusts may be established for the children's inheritance upon the surviving spouse's death. Generally, the Trustee can be given full discretion regarding whether to make distributions of income or principal to each child. You can provide that each child should receive her or his inheritance upon attaining a particular age or you can have the trust continue for the child's lifetime. Again, the trust provides asset protection, including in the event of divorce. Nevertheless, you may wish for the child to receive a portion or all of his or her inheritance outright at a certain time. For example, you could provide for principal distributions in installments at ages 30, 35 and 40 (or whichever ages you choose).
- List ages, if any, when children will receive outright distributions.

- Provide contingent beneficiaries in the event that neither you nor your descendants are living.

Trustees

- A Trustee makes decisions regarding investment management of the trust assets and distributions to the beneficiaries. The role is discretionary, interactive and administrative in nature.
- Who will serve as Trustee if you become incapacitated?

- Who will serve as Trustee with the surviving spouse upon the first spouse's death?

- Who will serve as Trustee of the children's trusts and as a backup to the first choice?

- Should each child serve as a co-Trustee, and if so, at which age?

- To give each beneficiary maximum authority (but short of full control) you may give the surviving spouse and/or each child the right to remove and replace the Trustees. Should the surviving spouse have this right?

- Should each child have this right?

- You may name one or more Trustees to serve together and may name successors.

Retirement Accounts and Life Insurance

Who will be the beneficiaries of my retirement accounts and life insurance proceeds?

- You should complete beneficiary designation forms provided by your plan administrators, account custodians and insurance carriers to ensure your wishes are carried out.

Power of Attorney/Health Care Proxy/Living Will

Who will make financial and health care decisions on my behalf and as I would wish in the case of incapacity or disability?

- These documents are included in estate plans so financial and health care decisions can be made in the event of an incapacity or disability.
- Do you wish to name your spouse or another individual as attorney-in-fact (also referred to as an “agent”) to manage financial decisions on your behalf?

- Do you wish to name your spouse or another individual to make health care decisions on your behalf in the event of your incapacity?

- Do you wish to name successor financial and health care agents?

Important Disclosure

Morgan Stanley Smith Barney LLC does not accept appointments nor will it act as a trustee but it will provide access to trust services through an appropriate third-party corporate trustee.

This material has been prepared for informational purposes only and is subject to change at any time without further notice. Information contained herein is based on data from multiple sources and Morgan Stanley Smith Barney LLC ("Morgan Stanley") makes no representation as to the accuracy or completeness of data from sources outside of Morgan Stanley. It does not provide individually tailored investment advice. The appropriateness of a particular investment or strategy will depend on an investor's individual circumstances and objectives. Be aware that the particular legal, accounting and tax restrictions, margin requirements, commissions and transaction costs applicable to any given client may affect the consequences described.

Tax laws are complex and subject to change. This information is based on current federal tax laws in effect at the time this was written. Morgan Stanley Smith Barney LLC, its affiliates, and Financial Advisors do not provide tax or legal advice. Clients should consult their tax advisor for matters involving taxation and tax planning and their attorney for matters involving trust and estate planning and other legal matters.
